

S. C. asks the Utah Labor Commission to reconsider its prior decision denying Ms. C.'s claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Ann.).

The Labor Commission exercises jurisdiction over this matter pursuant to Utah Code Ann. §63-46b-13.

### **BACKGROUND AND ISSUE PRESENTED**

On August 19, 2000, while Ms. C. was working for Fresenius Medical Care, her chair was pulled from under her and she fell to the floor. On March 12, 2001, Ms. C. filed an Application For Hearing with the Commission to compel Fresenius Medical Care and its workers' compensation insurance carrier, CNA Insurance (referred to jointly as "Fresenius" hereafter), to pay benefits for injuries to Ms. C.'s left arm and low back allegedly caused by her accident.

Fresenius accepted liability for Ms. C.'s left arm injury; Judge Hann held an evidentiary hearing regarding Ms. C.'s alleged low back injury. Judge Hann's subsequent decision noted that Ms. C. had not reported any low back pain or injury until several months after her accident, thereby undercutting her claim that she had suffered a low back injury at the time of her work accident. On that basis, Judge Hann accepted the opinion of the medical panel and other physicians that the accident did not cause Ms. C.'s low back injury, and denied Ms. C.'s claim for benefits for the low back injury.

Ms. C. requested Commission review of Judge Hann's decision. On February 25, 2004, the Commission affirmed Judge Hann's decision. The Commission agreed with Judge Hann that Ms. C. made no meaningful report of low back pain for six months after her work accident. In light of Ms. C.'s failure to report low back pain proximate to the accident, the Commission concluded, as had Judge Hann, that the medical evidence failed to establish that the work accident had caused any low back injury.

Ms. C. has now asked the Commission to reconsider its decision. Ms. C.'s request for reconsideration is based on her mistaken belief that the Commission denied benefits pursuant to the 180-day notification requirement of § 34A-2-407.

### **DISCUSSION**

While it is true that § 34A-2-407 requires injured workers to provide notice of injury to employers within 180 days, that requirement is not the basis for Commission denial of Ms. C.'s claim. Rather, the Commission's decision is based on a finding that Ms. C.'s alleged low back problems were not caused by her work accident. One of the specific findings supporting the Commission's conclusion is that Ms. C. failed to identify any low back injury for a long period of time after the accident. Thus, the Commission's decision is grounded on a lack of causation, rather

than any violation of § 34A-2-407. The Commission remains of the opinion that its determination is correct.

**ORDER**

The Commission reaffirms its prior order and denies Ms. C.'s request for reconsideration. It is so ordered.

Dated this 19<sup>th</sup> day of May, 2004.

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R. Lee Ellertson  
Utah Labor Commissioner